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PTO/SB/05 (11-00)

Approved for use through 10/31/2002. OMB 0651-0032

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09/24/01  
PTO

# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

Attorney Docket No. 38-21(15367)C

First Inventor BYRUM, et al.

Title Nucleic Acid Molecules and Other Molecules Associated with Plants

Express Mail Label No. \_\_\_\_\_

09/24/01  
PTO  
1046U.S.5  
09/24/01

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1.  Fee Transmittal Form (e.g., PTO/SB/17)  
*(Submit an original and a duplicate for fee processing)*
2.  Applicant claims small entity status.  
*See 37 CFR 1.27.*
3.  Specification [Total Pages 92]  
*(preferred arrangement set forth below)*
  - Descriptive title of the Invention
  - Cross References to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference to sequence listing, a table, or a computer program listing appendix
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawings (*if filed*)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
4.  Drawing(s) (35 U.S.C.113) [Total Sheets 1]
5. Oath or Declaration [Total Pages 9]  
  - a.  Newly executed (original or copy)
  - b.  Copy from a prior application (37 CFR 1.63 (d))  
*(for a continuation/divisional with Box 18 completed)*
    - i.  **DELETION OF INVENTOR(S)**  
*Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).*
6.  Application Data Sheet. See 37 CFR 1.76

ADDRESS TO: Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

7.  CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission  
*(if applicable, all necessary)*
  - a.  Computer Readable Form (CRF)
  - b. Specification Sequence Listing on:
    - i.  CD-ROM or CD-R (2 copies); or
    - ii.  paper
  - c.  Statements verifying identity of above copies

## ACCOMPANYING APPLICATIONS PARTS

9.  Assignment Papers (cover sheet & document(s))
10.  37 C.F.R. §3.73(b) Statement  Power of Attorney  
*(when there is an assignee)*
11.  English Translation Document *(if applicable)*
12.  Information Disclosure Statement (IDS)/PTO-1449  Copies of IDS Citations
13.  Preliminary Amendment
14.  Return Receipt Postcard (MPEP 503)  
*(Should be specifically itemized)*
15.  Certified Copy of Priority Document(s)  
*(if foreign priority is claimed)*
16.  Request and Certification under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17.  Other: \_\_\_\_\_

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

Continuation  Divisional  Continuation-in-part (CIP)

of prior application No: 09 / 306,349

Group / Art Unit: 1631

Prior application information: Examiner Michael Borin  
For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## 17. CORRESPONDENCE ADDRESS

Customer Number or Bar Code Label  Correspondence address below  
(Insert Customer No. or Attach bar code label here)

Name	Gail Wuellner				
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Country	USA	Telephone	314-694-3602		Fax 314-694-1671

Name (Print/Type)	Lawrence M. Lavin, Jr. by June E. Cohan	Registration No. (Attorney/Agent)	30,768/43,741
Signature	<i>Lawrence M. Lavin, Jr. by JEC</i>		Date Sept 24, 2001

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

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# ARNOLD & PORTER

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202.942.5000  
202.942.5999 Fax

555 Twelfth Street, NW  
Washington, DC 20004-1206

September 24, 2001



Commissioner for Patents  
Washington, D.C. 20231

***Box Patent Application***

Re: U.S. Continuation Application  
Appl. No.: To Be Assigned  
Filed: Herewith  
For: Nucleic Acid Molecules and Other Molecules  
Associated with Plants  
Inventors: BYRUM, *et al.*  
Atty. Docket: 38-21(15367)C

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Sir:

The following documents are forwarded herewith for appropriate action by the U.S. Patent and Trademark Office.

1. Utility Patent Application Transmittal (PTO/SB/05);
2. U.S. Non-Provisional Application entitled:

**Nucleic Acid Molecules and Other Molecules Associated with Plants**

and naming as inventors:

Joseph R. Byrum, Thomas J. La Rosa and Gregory R. Heck

the application consisting of:

- a. A specification containing:

- (i) 89 pages of a description prior to the claims;
- (ii) 2 pages of claims (7 claims); and
- (iii) a one (1) page abstract;

3. a Statement Regarding Sequence Submission;
4. a Sequence Listing on CD-ROM identified as "Sequence Listing Copy 1;"
5. a Sequence Listing on CD-ROM identified as "Sequence Listing Copy 2;"

6. the sequence listing in computer readable form (*i.e.*, CRF);
7. a Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) (PTO/SB/35);
8. Preliminary Amendment;
9. a copy of Combined Declaration and Power of Attorney for Patent Application of Joseph R. Byrum filed in parent appln. no. 09/306,349 (3 pages);
10. a copy of Combined Declaration and Power of Attorney for Patent Application of Thomas J. La Rosa filed in parent appln. no. 09/306,349 (3 pages);
11. a copy of Combined Declaration and Power of Attorney for Patent Application of Gregory R. Heck filed in parent appln. no. 09/306,349 (3 pages);
12. Information Disclosure Statement;
13. PTO Form-1449 (3 pages) with 8 accompanying documents;
14. check No. 139715 in the amount of \$710 to cover the basic continuation filing fee; and
15. two (2) return postcards.

Submitted herewith is a sequence listing and a sequence listing in CD-ROM, in compliance with 37 C.F.R. §§ 1.52(e), 1.77, and 1.823.

It is respectfully requested that, of the two attached postcards, one be stamped with the filing date of these documents and returned to our courier, and the other, prepaid postcard, be stamped with the filing date and unofficial application number and returned as soon as possible.

This application is a continuation of prior application no. 09/306,349 filed on May 10, 1999.

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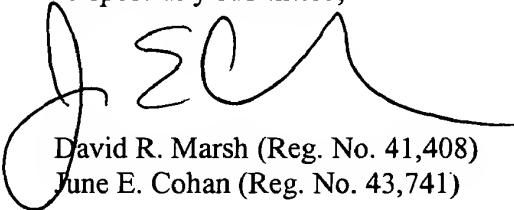
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Continuation Application  
Atty. Dkt. 38-21(15367)C  
Page 3

Applicants do not believe that any fees other than the basic filing fee (\$710) are due in conjunction with this filing. However, should any additional fees be required, the Patent and Trademark Office is authorized to charge any additional fees or credit any overpayment to Arnold & Porter deposit account 50-1824 referencing matter number 38-21(15367)C. This letter is submitted in duplicate.

Respectfully submitted,



David R. Marsh (Reg. No. 41,408)  
June E. Cohan (Reg. No. 43,741)

Enclosures

DRAFT - DO NOT FILE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>REQUEST AND CERTIFICATION UNDER 35 U.S.C. 122(b)(2)(B)(i)</b>		First Named Inventor	BYRUM, et al.
Title	Nucleic Acid Molecules and Other Molecules Associated with Plants		
		Atty Docket Number	38-21(15367)C

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

*Sept 24, 2001*  
Date

*Lawrence M. Lavin, Jr.  
by June E. Cohan*

Signature

Lawrence M. Lavin, Jr. (Reg. No. 30,768)  
by June E. Cohan (Reg. No. 43,741)

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(a). The information is used by the public to request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that request). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.